

REMARKS

Claims 17 and 18

The Examiner found that claims 17 and 18 are directed to an invention that is independent
5 or distinct from the invention originally claimed and withdrew the claims. Claims 17 and 18 have
been withdrawn.

Claim Rejections – 35 U.S.C. §103

Claims 1-5 and 7 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over
10 United States publication No. 2003/0217746 to Gradon et al. in view of United States publication
No. 2003/0196658 to Ging et al. Reconsideration and withdrawal of the rejection is requested.

Claim 1 was amended to include the limitation of “an outer cover or film that is applied on
to and adhered to all outer surfaces of said inner cushion body, said outer cover or film reinforcing
said inner cushion body to reduce the possibility of tearing of said inner cushion body”. Support
15 for this amendment is provided in the paragraph on page 7, lines 5-13 of the application as
originally filed. Amended claim 1 is directed to an outer cover or film that is adhered or applied
to all the outer surfaces of the cushion. The purpose of the outer cover or film is to ‘encapsulate’
the inner cushion body. The outer cover or film is an additional layer between the inner cushion
body and the outer sealing sheath. The outer cover or film does not contact the face of a user, but
20 the outer cover or film strengthens the cushion. The outer cover or film reinforces the inner
cushion body by being adhered to the outer surfaces. The outer cover or film prevents the inner

cushion body from tearing due to a patient moving his/her face while the cushion is in contact with the face.

Gradon discloses a cushion 1104 having an inner cushion body 1110 and an outer sealing sheath 1112 that engages around the inner cushion body. Figure 19 of Gradon shows an outer
5 sealing sheath 1112 that is not adhered or applied to the outer surfaces of inner cushion body 1110. The outer sealing sheath 1112 is a separate moveable structure from inner cushion body 1110.

Ging discloses a mask cushion 40 with an outer sealing 'membrane 205'. The sealing membrane 205 is a rolled over section attached around the outer rim of the mask cushion 40. The
10 sealing membrane 205 is attached to the base 210 of the mask cushion 40 and is free from the mask cushion 40 in the upper regions of the mask cushion 40 as shown Figures 25e, 25f, 25g. The sealing membrane 205 does not adhere to all outer surfaces of the mask cushion 40. The sealing membrane 205 only acts to form a seal against the face of the patient when in use. The sealing membrane 205 alone seals with the face of a user as stated in paragraph [0172] on page
15 12, and in paragraph [0183] on page 14 of Ging.

There is no disclosure in Ging or Gradon of an outer reinforcing cover or film that is applied and adhered to all the outer surfaces of the cushion body to reinforce the cushion body in order to stop the cushion body from tearing. The sealing membrane 205 of Ging is similar in structure to the sealing sheath 1112 of Gradon. The sealing membrane 205 covers the cushion
20 and contacts the face to form a seal. Figures 25e to 25g of Ging show that the sealing membrane 205 is similar in structure to sheath 1112 as in Figure 19 of Gradon. The sealing membrane 205 is spaced away from the cushion rim 225, as seen in Figures 25e-25g. Paragraph [0187] of Ging

states that the distance between the membrane and the cushion rim is between 7mm and 16mm. This paragraph and Figures 25e-25g clearly demonstrate that the sealing membrane of Ging is not an outer cover or film that is applied and adhered to all the outer surfaces of the cushion body.

Therefore, neither Gradon nor Ging, alone or in combination, discloses the limitation in amended claim 1 of "an outer cover or film that is applied on to and adhered to all outer surfaces of said inner cushion body, said outer cover or film reinforcing said inner cushion body to reduce the possibility of tearing of said inner cushion body". Thus, amended claim 1 is not rendered obvious by Gradon in view of Ging. Reconsideration and withdrawal of the rejection is requested. Allowance is requested.

Claims 2-5 and 7 are dependent upon amended claim 1 which Applicants submit is allowable. Therefore, Applicants submits that claims 2-5 and 7 are allowable. Reconsideration and allowance is requested.

Claims 11-13 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Gradon et al. in view of Colvin. Reconsideration and withdrawal of the rejection is requested.

Claim 11 was amended to include the limitation of "an outer film applied to or adhered to all outer faces of said cushion body such that said outer film reinforces said cushion body". Support for this amendment is provided in the paragraph on page 7, lines 5-13 of the application as originally filed. Since the outer film is applied to all the outer faces of the cushion body, the outer film defines the outer boundary for the voids. The outer film 'encapsulates' the cushion body and reinforces the cushion body by being applied to or adhered to the outer surfaces of the cushion body. The outer film prevents the cushion body from tearing due to a patient moving his/her face while the cushion is in contact with the face.

Neither Gradon nor Colvin discloses an outer film applied to all the outer faces of the cushion body as defined in amended claim 11.

Gradon is silent regarding a cushion body having a plurality of adjacent voids. Colvin teaches a material with a plurality of voids. The voids in Colvin are designed for impact loading and designed to absorb impact load and act as shock resistance. Common uses for the void structure of Colvin are in shipping, life jackets, American football helmets and shoulder pads, see Col. 8, lines 15-35. There is no suggestion in either Gradon or Colvin to provide such voids in Gradon. Gradon does not need to have voids for impact loading, for absorbing impact load and/or for acting as shock resistance. Therefore, Applicants submit that one of ordinary skill in the art would not combine Gradon and Colvin without the use of hindsight after reading Applicants present patent application.

Neither Gradon nor Colvin, alone or in combination, discloses the limitations in amended claim 11. Reconsideration and withdrawal of the rejection is requested. Allowance is requested.

Claims 12 and 13 are dependent upon amended claim 11 which Applicants submit is allowable. Therefore, Applicants submits that claims 12 and 13 are allowable. Reconsideration and allowance is requested.

Claim 6 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Gradon et al. in view of Ging et al. and further in view of United States Patent No. 5,518,802 to Colvin. Claim 14 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Gradon et al. in view of Colvin and further in view of Ging. Claim 6 is dependent upon amended claim 1 which Applicants submit is allowable; claim 14 is dependent upon amended claim 11 which Applicants

submit is allowable. Therefore, Applicants submit that claims 6 and 14 are allowable.

Reconsideration and allowance is requested.

New Claims 19-22

5 Claims 19-22 are newly-presented and are dependent on amended claim 11. Support for claims 19-22 is provided in the paragraphs starting on page 6, line 21 through page 7, line 3 in the application as originally filed. Since claims 19-22 are dependent upon amended claim 11 which Applicants submit is allowable, Applicants submit that claims 19-22 are allowable. Entry, consideration and allowance is requested.

10 With further regard to claim 19, the honeycomb structure is present in a part of the cushion that contacts a nasal bridge of a patient when in use to reduce the pressure on the patient's nasal bridge. The voids and cushion of Colvin is not adapted or structured to provide comfort, sealing and dissipate load when used on a human face. A person of ordinary skill in the art would not combine Gradon and Colvin to arrive at a cushion with voids in it absent the use of hindsight.

15

A Request for Continued Examination is concurrently filed herewith. A Petition for a Two-Month Extension of Time is concurrently submitted herewith to extend the date for response up to and including August 3, 2010.

Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 985-5900.

Respectfully submitted,

Dated: Aug. 3, 2010

By:



Raiford A. Blackstone, Jr., Reg. No. 25,156

Linda L. Palomar, Reg. No. 37,903

CLARK HILL PLC

150 N. Michigan Avenue

Suite 2700

Chicago, Illinois 60601

6666688.1 09999/09999-030030